

Frequently Asked Questions on the 65 Percent Reduction in COBRA Costs in the Recovery Package

SUMMARY: Recession-related job losses are threatening health coverage for many families. To help workers maintain their health coverage while they are between jobs, the American Recovery and Reinvestment Act (ARRA) provides a 65% reduction in the premiums payable by involuntarily terminated workers and their families for health care continuation coverage under COBRA. This premium reduction will last for up to 9 months. Workers who have been involuntarily terminated during the period from September 1, 2008 through December 31, 2009 and their families are eligible. This premium reduction also applies to health care continuation coverage that may be required by states for insurance policies sponsored by small employers (so called state mini-COBRA) and public employees. This provision will help 7 million people maintain their health insurance by providing a vital bridge for families when workers have been forced out of their jobs as a result of the recession.

1. QUESTION: Who is eligible for the premium reduction?

To be eligible for the premium reduction, you must be a COBRA qualified beneficiary who meets all of the following requirements:

- Is eligible for COBRA continuation coverage as a result of Federal or State law at any time during the period beginning September 1, 2008 and ending December 31, 2009;
- Elects COBRA coverage (when first offered or during the additional election period); and
- Was involuntarily terminated during the period beginning September 1, 2008 and ending December 31, 2009.

If you are eligible for other group health coverage (such as through a spouse's plan) or for Medicare, you are not eligible for the premium reduction. In addition, your same year (2009 and/or 2010) modified adjusted gross income must not exceed \$125,000 (or \$250,000 for families). If your income exceeds this limit, all or part of the amount of your premium reduction may be recaptured by an increase in your income tax liability for the year.

2. QUESTION: How do I know whether or not I have been involuntarily terminated from employment?

Involuntary termination is a termination that is at the direction of the employer. Note that termination for gross misconduct will generally disqualify an employee and his/her family from

COBRA coverage. For more information on whether your termination is involuntary please call the Department of Labor's Employee Benefits Security Administration's Benefits Advisors at 1-866-444-3272.

3. QUESTION: How does the premium reduction work?

It works the same way as standard COBRA coverage. However, instead of paying the full premium to the former employer/insurer, you will pay 35% of the premium. The former employer/insurer will be compensated for the other 65% of the premium by the federal government.

The premium reduction is available as of your first period of coverage beginning on or after February 17, 2009, the date of enactment of this law. Some plans may have already sent out bills for the full premium. If you get a bill for the full premium and pay it, you will either be reimbursed for the overpayment or receive a credit toward future premium payments.

4. QUESTION: How do I sign up for the premium reduction?

To sign-up for the premium reduction, you must enroll in COBRA coverage and fill out the premium reduction enrollment forms provided by your health plan. Generally, under COBRA the employer must notify your health plan that you are being terminated within 30 days. After that, your health plan must notify you within 14 days regarding your COBRA eligibility and provide you with materials regarding enrollment. After February 17, 2009, plans will also begin sending out information regarding the premium reduction. If you have not yet received information from your health plan, you can contact your plan directly.

5. QUESTION: I was involuntarily terminated after September 1, 2008 and am enrolled in COBRA now. How do I get the premium reduction?

As of your first period of coverage beginning on or after February 17, 2009, you are only required to pay 35% of your total premium. You should immediately contact the former employer/insurer that administers your COBRA to obtain the documents necessary to establish eligibility for the premium reduction and explain that you intend to take advantage of the premium reduction and pay 35% of your premium. If you have already paid the full amount for the next pay period, your former employer or insurer is required to reimburse you or credit a future payment.

6. QUESTION: What if I was involuntarily terminated after September 1, 2008 but didn't elect COBRA within 60 days as required by law?

If you were involuntarily terminated from September 1, 2008 through February 16, 2009, but failed to initially elect COBRA you will get a second chance to elect COBRA and receive the premium reduction. No later than April 18, 2009 health plans should notify individuals about the second election period, in addition to providing any forms and information needed to enroll. You will have 60 days after receipt of that notice to enroll in COBRA and the premium reduction. However, you can contact your former employer now and say you want to take advantage of the second chance election period. In either case, your coverage begins with the first period of coverage beginning on or after February 17, 2009.

7. QUESTION: What if I was involuntarily terminated after September 1, 2008, elected COBRA within 60 days as required by law, but dropped the coverage?

If you were involuntarily terminated during the period from September 1, 2008 through February 16, 2009 and initially elected COBRA, but dropped the coverage (for example, because it was unaffordable), you will get a second chance to elect COBRA and receive the premium reduction. No later than April 18, 2009 your health plan should notify individuals about the second election period and should provide any forms and information needed to enroll. You will have 60 days after receipt of that notice to enroll in COBRA and sign up for the premium reduction. However, you can contact your former employer now and say you want to take advantage of the second chance election period. In either case, your coverage begins with the first period of coverage beginning on or after February 17, 2009.

8. QUESTION: Who can take advantage of the additional election period?

Only plans subject to the Federal COBRA provisions are required to provide an additional election period when certain involuntary terminations occurred from September 1, 2008 through February 16, 2009. ARRA does not require coverage provided under state continuation coverage provisions (including state mini-COBRA coverage) to offer an additional election period. States may choose but are not required to offer a second election period.

9. QUESTION: Is death considered an involuntary termination?

No. While death of an employee can be a qualifying event for that person's beneficiaries to be eligible for COBRA coverage, death is not an involuntary termination of employment. The beneficiaries would be required to pay the full premium amount if they elected COBRA. However, if an employee dies after an involuntary termination, the employee's beneficiaries may be entitled to the premium reduction for the remainder of the 9 month period that would otherwise be available.

10. QUESTION: How long can I receive the premium reduction?

Generally, individuals who qualify can receive the 65% premium reduction for up to 9 months. COBRA coverage is still available for up to 18 months and 36 months in some cases. If you remain on COBRA after the premium reduction period expires, you may be responsible to pay the full premium amount.

In certain situations, however, you would not be eligible to receive the premium reduction for 9 months. If one of the following events occurred, the premium reduction would end at the earliest occurring event:

- your employer (which in this case includes any responsible related or successor employer) no longer offers any group health plan to employees;
- you fail to make your premium payment; or
- you become eligible to receive health care through Medicare or another group health plan (such as the plan of a new employer or a spouse's employer).

It is important to note that if and when you become eligible for coverage through Medicare or another group health plan, you must notify the plan administrator immediately. While you remain eligible for COBRA when offered new coverage, you will no longer be eligible to receive the premium reduction. Continuing to receive the premium reduction after becoming eligible for other coverage could result in a penalty equal to 110 percent of the premium provided to you after your eligibility ends.

11. QUESTION: What do I do if I think I qualify for the COBRA premium reduction but my plan tells me I do not?

If your health plan finds that you are ineligible for the premium reduction, you can apply for review of that determination by the Secretary of Labor or by the Secretary of Health and Human Services depending on your type of plan (see following question). The Secretary will review your application and make a determination within 15 business days.

12. QUESTION: Where do I send my appeal?

The Departments of Labor (DOL) and Health and Human Services (HHS) are currently developing processes and an official form that will be required to be completed for applications for review.

- DOL will handle appeals related to private sector employers who are subject to ERISA's COBRA provisions. For more information or assistance determining where to file your appeal, visit www.dol.gov/COBRA or contact DOL at 1-866-444-3272.
- HHS will handle appeals for all government employees (federal and non-federal) as well as for those individuals covered by so-called mini-COBRA (insurance policies offered by employers with fewer than 20 employees).

13. QUESTION: How does the income cap work?

The income cap is designed to ensure that the premium reductions are going to people who most need the help. If your income for the year in which you are receiving the premium reduction (2009 and/or 2010) is more than \$125,000 (or \$250,000 for married couples filing a joint federal income tax return) all or part of the premium reduction may be recaptured by an increase in your income tax liability for the year. If you think that your income may exceed the amounts above, consult your tax preparer or contact the IRS at 1-800-829-1040.

14. QUESTION: If I elect COBRA and receive the premium reduction, can I change my coverage or do I have to retain the coverage I had while employed?

Group health plans are permitted, but not required, to allow qualified beneficiaries to enroll in coverage that is different than the coverage they had at the time of the qualifying event. Changing coverage will not cause an individual to be ineligible for the COBRA premium reduction, provided that: the premium for the different coverage is the same or lower than the coverage the individual had at the time of the qualifying event; the different coverage is also offered to active employees; and the different coverage is not limited to only dental coverage, vision coverage, counseling coverage, a flexible spending account, or on-site medical clinic. If the plan permits individuals to change coverage options, the plan must provide the individuals with a notice of their opportunity to change. Individuals have 90 days to elect to change their coverage after the notice is provided.

15. QUESTION: What if I was laid off before September 1, 2008, can I receive the premium reduction?

No. To be eligible for the premium reduction you must have lost your job on a date between September 1, 2008 and December 31, 2009.

16. QUESTION: What if my employer went out of business and did not continue the company health plan, can I receive COBRA coverage and the premium reduction?

If your employer terminates all its health plans, COBRA continuation coverage will generally not be available unless another related or successor employer sponsors a group health plan responsible under COBRA for providing coverage to you.

17. QUESTION: As an employer, how can I get more information about how the premium reduction works and how I will report the reductions on my quarterly federal tax return Form 941?

Contact the IRS at 1-800-829-4933.

18. QUESTION: Where can I get more information if I have additional questions about the COBRA premium reduction?

Contact the Department of Labor's Employee Benefits Security Administration's Benefits Advisors at 1-866-444-3272. In addition, the Employee Benefits Security Administration has developed a dedicated COBRA web page www.dol.gov/COBRA that will contain information on the program as it is developed. Subscribe to this page to get up to date fact sheets, FAQs, model notices and applications.

###

House Committees on Education & Labor, Ways & Means, and Energy & Commerce
Senate Committees on Finance, and Health, Education, Labor & Pensions
February 27, 2009